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UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

IN RE PG&E CORPORATION  
SECURITIES LITIGATION

CASE NO. 5:18-cv-03509-EJD

**OFFICER, DIRECTOR, AND  
UNDERWRITER DEFENDANTS'  
OPPOSITION TO PLAINTIFF'S MOTION  
FOR ADMINISTRATIVE RELIEF TO  
SUBMIT SUPPLEMENTAL AUTHORITY**

Judge: Hon. Edward J. Davila

1 The Officer Defendants<sup>1</sup> and Director and Underwriter Defendants<sup>2</sup> respectfully request  
 2 that this Court deny Plaintiff's Motion for Administrative Relief to Submit Supplemental  
 3 Authority, filed on June 23, 2025. (Dkt. 310.) Plaintiff has asked the Court to take notice of the  
 4 Ninth Circuit's recent decision in *Pino v. Cardone Capital, LLC*, No. 23-3512, 2025 WL 1642422  
 5 (9th Cir. June 10, 2025). However, this decision addressing non-fraud claims under Section  
 6 12(a)(2) of the Securities Act of 1933 is irrelevant to Plaintiff's fraud claims asserted against the  
 7 Officer Defendants under the Securities Exchange Act of 1934 ("Exchange Act") and irrelevant to  
 8 Plaintiffs' Section 11 claims asserted against the Director and Underwriter Defendants under the  
 9 Securities Act of 1933 ("Securities Act").

10 Without further explanation, Plaintiff points this Court to the following quote from the  
 11 Ninth Circuit in *Pino*: "By its nature, a misleading omission suggests that a contrary fact could  
 12 exist and may have been disclosed elsewhere, but not as part of the statement in question. Indeed,  
 13 'that truthful information is available elsewhere does not relieve a defendant from liability for

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 15 <sup>1</sup> The Officer Defendants are Christopher Johns, Julie Kane, Patrick Hogan, Anthony Earley,  
 16 Geisha Williams, Nickolas Stavropoulos, David Thomason, and Dinyar Mistry.

17 <sup>2</sup> The Director Defendants are Barbara L. Rambo, Lewis Chew, Fred J. Fowler, Richard C. Kelly,  
 18 Roger H. Kimmel, Richard A. Meserve, Forrest E. Miller, Maryellen C. Herringer, Barry Lawson  
 19 Williams, Rosendo G. Parra, Anne Shen Smith and Eric D. Mullins. The Underwriter Defendants  
 20 are Barclays Capital Inc., BNP Paribas Securities Corp., Morgan Stanley & Co. LLC, MUFG  
 21 Securities Americas, Inc., The Williams Capital Group, L.P. (n/k/a Siebert Williams Shank & Co.,  
 22 LLC), Citigroup Global Markets Inc., J.P. Morgan Securities LLC, Merrill Lynch, Pierce, Fenner  
 23 & Smith Incorporated (n/k/a BofA Securities, Inc.), Mizuho Securities USA LLC, Goldman, Sachs  
 24 & Co., LLC, RBC Capital Markets, LLC, Wells Fargo Securities, LLC, BNY Mellon Capital  
 25 Markets, LLC, TD Securities (USA) LLC, C.L. King & Associates, Inc., Great Pacific Securities,  
 26 CIBC World Markets Corp., SMBC Nikko Securities America, Inc., U.S. Bancorp Investments,  
 27 Inc., Mischler Financial Group, Inc., Blaylock Van, LLC, Samuel A. Ramirez & Company, Inc.,  
 28 and MFR Securities, Inc. (but not Lebenthal & Co. LLC, which has not appeared here).

misrepresentations in a given filing or statement.” *See id.* at \*5 (quoting *Miller v. Thane Int’l, Inc.*, 519 F.3d 879, 887 n.2 (9th Cir. 2008)). This holding has no bearing on Plaintiff’s Section 10(b) claims under the Exchange Act, which rely on the fraud-on-the-market doctrine to establish reliance. Indeed, the full quote from *Miller* makes this clear:

In the context of a “fraud on the market” Rule 10b–5 class action, where reliance is presumed based on the price of a stock, availability to the public of truthful information **may be relevant** to the extent the stock’s price has not actually been skewed by any misrepresentations. However, in an action **that does not involve the fraud on the market presumption**, that truthful information is available elsewhere does not relieve a defendant from liability for misrepresentations in a given filing or statement.

519 F.3d at 887 n.2 (citing *In re Apple Computer Sec. Litig.*, 886 F.2d 1109, 1114–15 (9th Cir.1989) (emphasis added). In the third amended consolidated class action complaint (“TAC”), Plaintiff specifically alleges that “[f]or the Exchange Act claims, Lead Plaintiff will rely upon the presumption of reliance established by the fraud-on-the-market doctrine.” TAC ¶¶ 459-462. Accordingly, contrary information disclosed elsewhere is relevant and should be considered in assessing Plaintiff’s claims under the Exchange Act.

Plaintiff’s Motion is irrelevant to the claims asserted against the Director and Underwriter Defendants, which were made under Section 11 of the Securities Act. Plaintiff’s Motion fails to mention that *Pino* exclusively addressed claims under Section 12(a)(2) of the Securities Act, which are not asserted in this case. (*See* TAC ¶¶ 693-706.) *Pino* addressed in the negative the narrow question of whether a purchaser’s “constructive knowledge” of omitted information could bar that purchaser’s recovery from a statutory seller under Section 12. *Pino*, 2025 WL 1642422, at \*14. No such issue is presented in this case.

In any event, Plaintiff’s Motion is effectively a re-hash of the same argument in its opposition brief that the Director and Underwriter Defendants are relying upon a “truth on the market” defense, which the Director and Underwriter Defendants have never even asserted. *See* Dkt. 303 (Reply) at 8-9 (citing *Barnes v. Edison Int’l*, 2021 WL 2325060, at \*10 (C.D. Cal. Apr. 27, 2021), *aff’d*, 2022 WL 822191 (9th Cir. Mar. 18, 2022), for its holding that general statements

related to safety failures are not misleading where “the market was aware of [Edison’s] safety failures . . . *as each of CPUC’s admonitions of the Edison Defendants . . . was publicly available*”) (emphasis added)). Indeed, the Director and Underwriter Defendants’ reply brief expressly distinguished *Miller, supra*, when Plaintiff made the exact same irrelevant argument they now refashion as a motion to submit supplemental authority. *Compare* Dkt. 293 (Opposition) at 10 with Dkt. 303 (Reply) at 9. Plaintiff’s citation to a case addressing a different claim, quoting a prior case that both parties have already addressed in the original briefing, is improper.

Dated: June 24, 2025

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By: /s/ Jason D. Strabo

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